

FARMINGTON CITY COUNCIL SPECIAL MEETING

130 North Main Street
Wednesday, September 14, 2005

A special meeting of the Farmington City Council was held at 5:00 p.m. Those present were:

Mayor David M. Connors, Council Members Richard Dutson, David Hale, Larry W. Haugen, Susan T. Holmes, and Sidney C. Young; City Manager Max Forbush, City Planner David Petersen, Keith Johnson Finance Director, City Attorneys Michael J. Mazuran and Todd Godfrey; and City Recorder Margy Lomax.

Resolution Designating and Appointing Election Judges and Alternates to Serve in the Primary and General Elections, Setting the Compensation for their Services; and Providing for other Related Matters.

A list of prospective judges and alternates for the upcoming Primary Election to be held October 4 and the General Election to be held November 8 along with the five polling locations were presented to the Council for consideration. The polling locations will be Eagle Bay Elementary School, Farmington Jr. High School, Farmington Elementary, Farmington City Hall, and Knowlton Elementary.

A motion was made by **Susan Holmes** to appoint the election judges and alternates as had been presented to them by the City Recorder and to authorize the Mayor to sign the Resolution. A second to the motion was made by **Rick Dutson**. The motion passed with all Council Members voting in the affirmative.

Approval of Agreement with Davis County to provide Resources and Equipment to Farmington City for its Primary and General Elections

Farmington City is one of only two cities in the State of Utah who will be using the new electronic voting machines to run their elections this year. Diebold Election Systems has the State contract to provide new electronic voting machines to every county in Utah within the next year. Davis County, along with personnel from Diebold, will be assisting with the Farmington City Primary and General Municipal Elections to make sure the equipment works properly and to help with the voting process. The agreement will legally allow Davis County to do this. The agreement had been reviewed by the City Attorney and he has approved it as to form.

David Hale moved to approve the agreement with Davis County and to authorize the Mayor to sign the same. The motion was seconded by **Larry Haugen** and passed unanimously with an affirmative vote.

Minute Motion to go into Closed Meeting to discuss Competency of Individual and strategy as it relates to Acquisition of Real Property

Character and Competency of Individual

At 5:10 p.m. a motion to go into closed session to discuss the character and competency of individuals and to discuss strategy relating to the acquisition of real property was made by **David Hale**. The motion was seconded by **Larry Haugen** with all members voting in favor the motion passed.

A motion to go back into open meeting was made by **David Hale** with a second by **Sid Young**. The motion passed by a unanimous vote and the Council went back into open meeting at 6:20 p.m.

It was decided that a response letter to Rich Haws should be sent having a cooperative tone indicating that the City wants to move forward with the project and get it done. The City has an important part to play and it is important to be positive and supportive in the process. The Council wants to be clear in communicating its position.

Susan Holmes suggested the first paragraph of the letter should soften the tone of the rest of the letter as had been previously suggested by the Mayor.

Mark Johnson from Civitas is to be involved in the process and the response letter should be copied to him.

Sid Young suggested “bold” letters be used to emphasize what is expected.

Susan Holmes said that the time line in Mr. Haws’ letter should be addressed stating the City is not adopting specific deadlines but has every intention of moving the project along in a timely manner.

Rick Dutson suggested something should be added to the response letter regarding the error in Mr. Haws’ letter pertaining to fees and the necessity to do a re-calculation. The City fees have been determined in a legal and proper manner. Mr. Haws should be informed that the figures are only estimates.

Mr. Mazuran reported when the draft letter is revised, it will be sent to the Mayor and City Manager for review before it is sent.

Mayor Connors pointed out the response letter refers to the road to the north, which is an issue that has to be negotiated. He stated the road to the north has to be done, and that the “best

deal” Mr. Haws presents for approval will have to include the road to the north. He wants to make sure the message is conveyed that this is important to the City.

Susan Holmes stated that after giving much more consideration regarding the road to the north, she personally informed Mr. Haws supports the road to the north as a top priority and Mr. Haws now knows that she has changed her mind.

Discussion was held regarding the City’s negotiation team, who should be on it, and firming up dates and times of meeting. It was determined September 19 from 4:30 p.m. to 6:00 p.m. will be the first meeting time. Todd Godfrey said it is critical to include Randy Feil on any of the finance issues that Mr. Feil should be involved in all matters involving the ADL. It was decided Mayor Connors should be on the team along with Rick Dutson, who is a member of the Taxing Entity Committee. Mark Johnson is considered to be on the team as part of staff.

Who should be the chief negotiator was discussed. Mr. Godfrey stated he and Mr. Mazuran are contract counsel for the City and that the people of Farmington elect the Governing Body and the Governing Body appoints Max Forbush as the City Manager. He feels the message should be given to Rich Haws that Mr. Forbush does represent the City and Mr. Haws has to deal with him and the City Council. Mayor Connors said he and Mr. Forbush will both be speaking at the meetings and doesn’t feel they need to say who will be the chief negotiator. It will evolve and develop as the meetings take place, but Mr. Forbush carries the day-to-day responsibilities. It was determined the negotiation team will be: Mayor David M. Connors, City Manager Max Forbush, Council Member Rick Dutson, City Attorney Todd Godfrey, RDA Attorney Randy Feil, Mark Johnson from Civitas, and City Planner David Petersen. Others will be invited to meetings as needed such as the City Engineer.

Sid Young was concerned about friction in the meetings, especially between the City Manager and Rich Haws.

Michael Mazuran responded stating the project team will not be going in “cold” to the meetings. There will be an agenda that is known to all parties. It will be decided ahead of time what will be discussed which will allow inviting those whose expertise is needed for a particular meeting.

Mr. Forbush said the negotiations should go forward with firmness and fairness knowing beforehand the project team is in agreement. This will provide a lot of protection for the City. He then suggested possible dates and times for the meetings.

Mayor Connors suggested Todd Godfrey and Loyal Hulme (Mr. Haws’ attorney) identify the issues to be discussed at the first meeting to be held September 19. He said it should be communicated that the City is willing to move the project along.

Miscellaneous

Sid Young reported he had attended a class at the Utah League of Cities & Towns regarding sexually oriented businesses and feels a need to address the City's S.O.B. ordinance to update and tighten the City's regulations. He suggested obtaining and reviewing a copy of Roy City's ordinance.

There being no further business to discuss, upon motion from **Susan Holmes** with a second from **Larry Haugen**, the meeting was adjourned at 6:50 p.m.

Margy L. Lomax
City Recorder

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A closed meeting of the Farmington City Council was convened at 5:10 p.m. Those present were:

Mayor David M. Connors, Council Members Richard Dutson, David Hale, Larry W. Haugen, Susan T. Holmes, and Sidney C. Young; City Manager Max Forbush, City Planner David Petersen, Keith Johnson Finance Director, City Attorneys Michael J. Mazuran and Todd Godfrey; and City Recorder Margy Lomax.

Closed Meeting Minutes

Mayor Connors stated that he had received interesting correspondence from members of the Historic Preservation Commission with Alysa Revell taking the lead which included an indication of the possibility of the Commission bringing a lawsuit against the City to enforce the OTR zone. He said he believes there are some hard feelings between the Historic Preservation Commission, the Planning Commission and the City Council. He believes a meeting should be held with all three groups to talk about concerns, issues and goals to try to get everybody pulling in the same direction. Alysa Revell, Chair of the Historic Preservation Commission, thinks it is a good idea to hold a meeting.

David Hale suggested there is a need for structure at the meeting, to possibly use a facilitator. He agreed there is a need to get together and talk.

Susan Holmes said her perception is that the Historic Commission feels like they are in charge of making sure everything is done right. She said the Historic Commission feels like it has to have their blessing or it won't be done, but that is not the case. She suggested Sidney Fannesbeck from the Utah League might act as a facilitator.

Mayor Connors expressed concern that maybe the Planning Commission isn't paying as much attention to issues as it should. He asked for guidance from the Council and staff before the meeting is held.

David Petersen stated he has been preparing a response to Alysa Revell's presentation. He said there are so many things she doesn't understand as to the Historic Preservation Commission's powers. He said she is very knowledgeable and has great talent, but there need to be "softening" voices on the Historic Preservation Commission. Alysa seems to interpret the OTR text more

narrowly than Staff or the Planning Commission.

It was decided to hold the meeting on Wednesday, November 16, at 5:30 p.m. All members of Historic Preservation Commission and Planning Commission will be invited to attend.

Strategy as it Relating to Acquisition of Real Property

This discussion is a continuation of the closed meeting held the previous week dealing with acquisition issues surrounding the Station Park development. Max Forbush stated acquiring a road to the north is a critical issue and things are “heating up” between Woodside Homes and Stonehenge regarding it. He suggested that a negotiated solution needs to be obtained. A lot of focus should be given to the land acquisition for a road to the north.

Michael Mazuran and Todd Godfrey, City Attorneys, passed out copies of a draft response letter they had written to Rich Haws’ seven-page letter sent to the Council a week ago. Council Members read the letter. Mr. Mazuran stressed that the letter should convey the right tone and message.

Mr. Godfrey reported that he and David Petersen had met with Mr. Haws and his attorney and had had a very productive meeting, that they were receptive to the matters discussed. He believed that they had made headway. The ADL issue was discussed at the meeting, but they let Mr. Haws know it would have to be negotiated with the RDA representatives. Mr. Haws and his attorney expressed their concern that the City’s fees were out of line with other cities. Mr. Godfrey expressed his opinion that the methodology used by the City in determining impact fees was sound.

Mr. Forbush explained that the way the Haws’ group had figured the fees was wrong. He passed out a sheet showing the revised figures. In determining the building fee, they had used “6%” of the value of construction when they should have used .6 percent. The fees will be less than 1/10 of what was reported by Haws at the last Special Council Meeting. Also, their number on the plan check fee was incorrect.

David Petersen stated he and the Building Inspector will be meeting with Layton Construction on Thursday, September 15, to discuss some of these issues.

Mayor Connors suggested a statement be included in the response letter stating that based on preliminary review, Mr. Haws’ team had miscalculated the estimated fee structure for the project.

Max Forbush reported he had met with Rich Haws and the UDOT engineer on Tuesday to discuss the \$1 million grant money for construction of the road to the south to Park Station. It may cost \$100,000 in environmental impact review fees and could possibly take up to a year. There was discussion at the meeting also as to who owns the new Park Lane road.

Mr. Mazuran pointed out Mr. Haws had set forth a time line in his letter specifying when various items would be completed. Mr. Mazuran did not include any time definite commitment in the proposed response letter because there are always things that come up. He stressed, however, that everything should be moved along expeditiously -- in a reasonable and prompt manner.

Mayor Connors stated that the City wants to move the process along as soon as is reasonably possible. He said if Rich Haws is going to bail, the City needs to know sooner rather than later. The City does not wish to hold up the project.

Mr. Godfrey stated he e-mailed the revised Transit Oriented Development (TOD) ordinance to Mr. Petersen today. The City Council will need to make a second review of it at a Council meeting.

Mr. Mazuran and Mr. Godfrey expressed concern about what the City will receive from the project in terms of public property. Mr. Godfrey was particularly concerned that the City might end up with a lot of housing and nothing that is commercial. A detailed Project Master Plan will hold the developer to the uses listed on the Project Master Plan. This should give the City security knowing what it will get. The developer would not be able to build in housing where commercial should go. The developer would be required to give adequate detail up front and then could move through the process smoothly. A public hearing should be held on the Project Master Plan. The City needs to decide on the approval process.

Mayor Connors stated Mark Johnson from Civitas is a real resource and should be included when working on the "nuts and bolts" of the Project Master Plan. He has experience and will be able to manage expectations. He suggested a copy of the response letter to Mr. Haws be sent to Mr. Johnson. The heart of the MDA would be the Project Master Plan. Mayor Connors expressed he is anxious that the tone of the response letter be cooperative and positive. He also stated that he knows both attorneys who are working for Rich Haws. They are good friends. Mayor Connors stated that at the end of the day after the negotiation process is over, the City Council will make the final decisions, but he wants staff and the City Attorneys, including Randy Feil, RDA attorney, to tell him and the Council all there is to tell them as to what options are available. Rich Haws has been told not to make it personal with staff. The Mayor tried to convey that message through Loyal Hulme, Rich Haws' attorney. The City will not allow any developer to ignore and go around the staff. The City has to be real careful about that; the Council cannot let Rich Haws believe that he can be effective doing that; however, the City should be cooperative.

Michael Mazuran recommended that the Council may wish to designate a "Project Team", a "Negotiation Team". He suggested it should include one or two members of the Governing Body, staff, Mark Johnson, City Attorneys and the City Engineer. The team needs to know what the City Council is aiming for what the parameters are. Final decisions would be made by the City Council.

Max Forbush suggested that a spokesman be designated to represent the team in negotiating

with the Haws' group and then go back to the team to report and then reconvene to decide what to do. He felt Michael Mazuran would be good as the team spokesman because it would not be political as it could be with the Mayor or City Council Members and due to the fact there is friction between Rich Haws and the City Manager he might not be good as the spokesman.

Mayor Connors responded that he would be happy to be involved in the process but feels Max Forbush should be the chief negotiator.

End of Closed Meeting Minutes

Margy Lomax
City Recorder